

**STATE OF SOUTH DAKOTA
DEPARTMENT OF HUMAN SERVICES
DIVISION OF REHABILITATION SERVICES &
DIVISION OF SERVICE TO THE BLIND AND VISUALLY IMPAIRED**

**Agreement of Understanding
Between**

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| Agency Name | State of South Dakota |
| Agency Address | Department of Human Services |
| Agency Address | Division of Rehabilitation Services & |
| Agency City, State and Zip | Division of Service to the Blind & Visually Impaired |
| | Hillview Plaza, East Highway 34 |
| | C/o 500 East Capitol |
| | Pierre, SD 57501-5070 |

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| Referred to as Employment Network (EN) | Referred to as South Dakota Vocational Rehabilitation Programs (SDVR) |
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I. STATEMENT OF PURPOSE:

The Employment Network (EN) and the South Dakota Vocational Rehabilitation (SDVR) programs enter into this Agreement effective on __/__/20__ and end on __/__/20__ to meet the requirements of the Ticket to Work and Self-Sufficiency Program. This program is defined in Final Rules 20 CFR Part 411 section 400, regarding agreements between Employment Networks (EN) and State Vocational Rehabilitation Agencies.

This Agreement establishes the basis for the coordination of services and cost sharing between SDVR and said EN who will work together to serve beneficiaries under the Ticket to Work Program.

Goals of this Agreement include:

- ☐ Building strong partnerships between SDVR and EN around the provision of vocational rehabilitation services for consumers.
- ☐ Ensuring that best practices and ethical standards are maintained and that the consumer's rights and choices are respected.
- ☐ Minimizing administrative burden.
- ☐ Expansion of services for South Dakotans who have disabilities.
- ☐ Establish terms for the recovery of costs/outcome payments by SDVR and EN from the Social Security Administration (SSA).
- ☐ Assure that comparable benefits as prescribed in the Rehabilitation Act are used in accordance with the law and regulations.

II. CONDITIONS FOR SDVR PARTICIPATION IN SERVING "MUTUALLY ELIGIBLE TICKET HOLDERS":

All of the following conditions need to be present for SDVR's participation in serving mutually eligible ticket holders.

- ☐ The consumer must agree to SDVR participation;
- ☐ The consumer agrees to apply for SDVR services and is determined eligible by SDVR;
- ☐ The consumer has signed a release of information for an exchange of information between SDVR and EN;
- ☐ The Individual Work Plan (IWP) is signed by the consumer and meets the requirements of §411.465 of the Ticket regulations;
- ☐ SDVR's portion of services must be consistent with the Rehabilitation Act of 1973 as amended, Vocational Rehabilitation regulations, SDVR policy, and SDVR's involvement must be appropriate; and
- ☐ The EN provides SDVR with a current and complete copy of the IWP and any amendments as they occur.

III. ROLES AND RESPONSIBILITIES:

SDVR and EN will work to ensure all participating consumers are informed of their rights and choices under the Ticket Program. This will include their option not to participate in the Ticket to Work program or to assign their Ticket to other available employment networks. SDVR and EN will ensure consumers have access to information on the impact of employment on their federal benefits, state benefits, healthcare coverage and, when appropriate, refer consumers to available benefits counseling services.

The Employment Network will maintain Individual Work Plans (IWP) on all consumers who assign their Tickets to the EN. SDVR will maintain Individual Plans for Employment (IPE) on all consumers for whom SDVR provides services. Any service indicated in the IWP that requires services or funding from SDVR must be approved by a SDVR Counselor as indicated in the IPE. SDVR reserves that right to reject any IWP plan.

Upon referral:

1. EN agrees to supply SDVR with all supporting information to assist SDVR to complete the SDVR eligibility process in a timely fashion. This information should include: SSI/SSDI information, all psychological and medical documentation, any assessment information, work history and a signed Release of Information form.
2. EN will not promise the consumer that any service (s) will be provided by SDVR. SDVR will serve SSI/SSDI beneficiaries referred by EN who meet applicable law and regulation requirements.

Eligibility and Delivery of SDVR Services:

1. Consistent with the provisions of this Agreement, SDVR shall provide services to eligible beneficiaries who are referred by the EN to respective SDVR agency. Eligibility shall be determined in accordance with SDVR Program Policy, Vocational Rehabilitation regulations

and the federal Rehabilitation Act of 1973, as amended, to include the criteria that the beneficiary intends to achieve an employment outcome.

2. In determining whether to agree to serve beneficiaries who are referred by an EN to SDVR, SDVR shall review the IWP and all other supporting information. The objective of this review is for SDVR to evaluate whether, in SDVR's professional judgment, the proposed services to be performed by SDVR, along with all other aspects of the IWP, are in the best interest of the beneficiary. SDVR may recommend changes to the IWP which will be negotiated between the three parties (EN, Beneficiary, SDVR). If SDVR's recommended changes are not incorporated in the IWP, SDVR may decline to accept involvement in the services described in the IWP.
3. SDVR shall report to the EN all information with regard to the services that SDVR provides that are necessary for the EN to determine that the beneficiary is actively participating in the IWP, and which will allow the EN to make reports to the Program Manager. SDVR shall provide the EN with a Release of Information form, signed by the beneficiary, consenting to the release and disclosure of information.
4. SDVR shall maintain and protect the confidentiality of all beneficiary information and documentation that is provided to SDVR by the EN, consistent with the provisions contained in the Release of Information form signed by the beneficiary.

The Employment Network shall immediately inform SDVR upon the occurrence of any of the following events:

- (a) the beneficiary assigns his/her ticket to another EN,
- (b) the EN ceases to complete training or employment,
- (c) the EN's status as an EN has been terminated by the Program Manager, or
- (d) the beneficiary's ticket becomes inactive, terminates, or is otherwise taken out of assignment.

IV. PAYMENT:

Ticket assignments and payment options are handled on a case by case status. Following are the payment options between SDVR and an EN.

Option 1: SDVR selects Cost Reimbursement and does not assign the Ticket:

If SDVR chooses to not assign the Ticket, the EN can work with the beneficiary to assign the ticket to the EN as described in §411.135 and §411.140 of the Ticket regulations. In this type of situations, the SDVR can purchase traditional VR services from an EN without conflict of comparable benefit. The SDVR can collect on cost reimbursement and the EN can collect the remaining payments on the Ticket.

Option 2: SDVR assigns the ticket and shares the payments with the EN:

SDVR has chosen the payment option of Outcome-Milestone as defined in §411.525 – §411.590.

This will allow payments to occur even if the beneficiary does not discontinue SSA cash payments. When the ticket is assigned to SDVR, SDVR will perform the administrative functions associated with the Ticket Program including enrollment, reporting and billing functions. These will include the following:

- ☐ Activate the Tickets of these consumers with the Program Manager;

- ☐ Maintain case files and Individual Plans for Employment on all consumers who assign their Tickets to SDVR;
- ☐ Provide all the required reporting to the Program Manager; and
- ☐ Bill SSA for all appropriate outcome or reimbursement payments.

SDVR will provide or purchase the services that are identified on the consumer's IPE. The EN and other service providers may receive payment via fees for services when the services are completed in accordance with the approved fee schedule. If the wage records are not available from the State Unemployment Insurance records, the EN will be asked to assist in verifying wage earnings.

On a quarterly basis, SDVR will split the payments received by SSA 50/50 with the EN for Phase I - Milestones 3 and 4; Phase II – all Milestones; and Phase III – all outcomes. If the situation occurs where SSA made overpayments to SDVR which caused over payments to the EN, the EN will refund the overpayment or make adjustment on the next payment.

Prior to SDVR closing the Vocational Rehabilitation case, the consumer, SDVR and EN will complete and sign the Plan for Sustaining Employment (Attachment I) for each consumer. Only when this is completed, the payments described above will be shared with the EN.

EN holds the ticket:

When the ticket is assigned to the EN, the EN will perform the administrative functions associated with the Ticket Program including enrollment, reporting and billing functions. These will include the following:

- ☐ Activate the Tickets of these consumers with the Program Manager;
- ☐ Maintain case files and IWP on all consumers who assign their Tickets to EN;
- ☐ Provide all the required reporting to the Program Manager; and
- ☐ Bill SSA for all appropriate reimbursement payments.

V. DISPUTE RESOLUTION:

1. Should either party to this Agreement believe that the other is in violation of any of the provisions of this Agreement, the dispute shall be resolved informally between the Director of the appropriate South Dakota Vocational Rehabilitation program, and the Executive Director of the EN, or their designees.
2. Should the informal dispute resolution process fail to satisfactorily resolve the dispute, the matter shall be referred to the Program Manager for resolution. The Program Manager has 20 calendar days after receiving a written request to recommend a resolution to the dispute.
3. If either the EN or SDVR does not agree with the Program Manager's recommended resolution to the dispute, the EN or SDVR has 30 calendar days after receiving the Program Manager's recommendation to request a decision by SSA on the matter in dispute.

VI. CONTROLLING LAW:

This Agreement shall be governed by and construed in accordance with the laws of the State of South Dakota. Any lawsuit pertaining to or affecting this Agreement shall be venued in Circuit Court, Sixth Judicial Circuit, Hughes County, South Dakota.

VII. SUPERCESSION:

All other prior discussions, communications and representations concerning the subject matter of this Agreement are superseded by the terms of this Agreement, and except as specifically provided herein, this Agreement constitutes the entire Agreement with respect to the subject matter hereof.

VIII. SEVERABILITY:

In the event that any provision of this Agreement shall be held unenforceable or invalid by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

IX. HOLD HARMLESS:

The Employment Network agrees to hold harmless and indemnify the State of South Dakota, its officers, agents and employees, from and against any and all actions, suits, damages, liability or other proceedings which may arise as the result of performing services hereunder. This section does not require the Employment Network to be responsible for or defend against claims or damages arising solely from errors or omissions of the State, its officers, agents, or employees.

X. NOTICE:

Any notice or other communication required under this Agreement shall be in writing and sent to the address set forth above. Notices shall be given by and to the Division being contracted with on behalf of the State, and the Employment Network, or such authorized designees as either party may from time to time designate in writing. Notices or communications to or between the parties shall be deemed to have been delivered when mailed by first class mail, provided that notice of default or termination shall be sent by registered or certified mail, or, if personally delivered, when received by such party.

XI. AMENDMENTS:

This Agreement may not be assigned without the express prior written consent of SDVR. This Agreement may not be amended except in writing, which writing shall be expressly identified as a part hereof, and be signed by an authorized representative of the parties hereto.

XII. TERMINATION:

This Agreement may be terminated by either party hereto upon thirty (30) days written notice, and may be terminated by the South Dakota Vocational Rehabilitation for cause at any time, with or without notice. On termination of this Agreement all accounts and payments shall be processed according to financial arrangements set forth herein for services rendered to date of termination.

XIII. AUTHORIZED SIGNATURES:

In witness hereto, the parties signify their Agreement by affixing their signatures hereto.

Employment Network Signature

Date

State - DHS Division Director

Date

State - DHS Division Director

Date

State - DHS Department Secretary

Date

DHS Program Contract Person: Bernie Grimme
Phone: (605) 773-3195

DHS Fiscal Contract Person: Sacha Wise
Phone: (605) 773-5990

EN Program Contract Person: _____
Phone: _____

EN Fiscal Contract Person: _____
Phone: _____